REMARKS

This is in response to the Office Action dated October 7, 2008. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

By the above amendments, claims 1, 2, 5 and 6 are amended. Thus, claims 1-10 are currently pending in the present application. Support for the amendment can be found at least in Figs. 2, 3 and 7-9; and paragraphs [0019] and [0020] of the specification as originally filed.

On page 2 of the Office Action, claim 2 is rejected under 35 U.S.C. 112, second paragraph. In response, claim 2 has been amended to recite that the guide member is provided on at least one side of the pushing direction. Accordingly, the limitation has clear antecedent basis, and should be effective to overcome the rejection under 35 U.S.C. 112, second paragraph.

Next, on pages 3-5 of the Office Action, claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Yuyama et al. (U.S. Patent No. 6,789,996).

Initially, it is noted that the Yuyama patent qualifies as prior art under 35 U.S.C. 102(e), and thus the Yuyama patent is disqualified as prior art in accordance with the provisions of 35 U.S.C. 103(c). Although the Yuyama patent and the present application have different inventive entities, the Yuyama patent and the claimed invention were, at the time the claimed invention was made, commonly owned (MPEP 706.02(l)(1)). Therefore, the Yuyama patent can only be used if it "anticipates" the claims of the present application; it may not be used in an obviousness rejection under 35 U.S.C. 103.

Next, as will be demonstrated below, the applied Yuyama patent does not anticipate any of claims 1-10 under 35 U.S.C. 102(e). " A claim is anticipated only if each and every element as set forthin the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Yuyama discloses a medicine feed apparatus capable of dispensing a drug package having a flange at an upper side of the package (see Fig. 3b), however the Yuyama apparatus discloses neither a pushing mechanism nor a guide member which are required in independent claims 1 and 5 of the present invention. In particular, claim 1 requires, *inter alia*, a pushing mechanism for pushing out from the drug case the lowermost drug package in a horizontal direction, the pushing mechanism including rails for supporting the lowermost drug package as it is moved in the horizontal direction by the pushing mechanism, wherein a guide member is provided fixedly on an inner surface of a side wall of the drug case separately from the pushing mechanism for supporting and guiding the flange of the second drug package when the lowermost drug package is being pushed out, the guide member being provided in a pushing direction of the pushing mechanism.

Similarly, claim 5 requires, *inter alia*, a pushing mechanism, disposed in said lower case, for pushing out and dispensing from the upper case the lowermost package in a horizontal pushing direction, said pushing mechanism including a pair of rails for supporting the lowermost package as it is pushed out in the horizontal pushing direction; and at least one guide member fixedly disposed on an inner sidewall of said lower case for supporting and guiding the flange of the second

lowermost package when the lowermost package is pushed out by said pushing mechanism, said guide member being fixed on said inner sidewall so as to be immovable and disposed above said pushing mechanism.

In the statement of the rejection of claim 1 (Office Action, pg. 3), the Examiner takes the position that Yuyama shows a pushing mechanism in Figs. 9(a)-9(c) for pushing out the lowermost drug package; and, in Fig. 3b, a guide member 11. However, the drug packages stored in storage containers 3 are not pushed out by the conveyor 24. In fact, the packages are dispensed from the containers 3 by discharge mechanism 8 before they are placed on belt 26 of conveyor 24 (see col. 5, lines 11-15).

Further, the protrusions 11 simply protrude between the lowermost and second lowermost package to prevent the second package from dropping off when dispensing the lowermost package. The protrusions do not perform any guiding function and do not extend in the pushing direction as required in claim 1. Also, the protrusions 11 are movable forward and backward so as to be able to hold and release the second package. On the other hand, the guide member of the present invention is provided fixedly on the inner surface of the side wall of the drug case. Accordingly, it is submitted the Yuyama apparatus clearly lacks the claimed pushing mechanism and guide member, and therefore cannot anticipate claim 1 under 35 U.S.C. 102(e).

Claim 5

In the statement of the rejection of claim 5 (Office Action, pg.4), the Examiner takes the position that Yuyama disclose an upper case 3, a lower case 7 (Fig. 5(a), a pushing mechanism 8, and a guide member 11. Initially, it is noted Figs. 3-5 shows three different types of feeders for

discharging three different types of packages. The discharge mechanism in Fig. 5(a) is specially designed for ampoules and includes a conveyor belt 15 and a cutting rotor 19. The ampoules are not pushed out by the conveyor 15, and the protrusions 11 do not function to guide the succeeding ampoule during discharge of a lowermost ampoule. Thus, Yuyama clearly does not anticipate claim 5 under 35 U.S.C. 102(e).

Further, Yuyama shows another example of a discharge mechanism in Figs. 10 and 11. In contrast to the present invention, the mechanism disclosed in Figs. 11(a)-11(c) of Yuyama comprises a pair of guide plates 100a, 100b, which can be reciprocated between a discharge preparation position P1 and a discharge position P2, and a conveyor 105 (see col. 5, line 67 to col. 6, line 22). When the guide plates 100a, 100b are moved to the dispensing position P2, the medicine box is placed on the belt conveyor 105 (see col. 6, lines 46 to 49).

In contrast, the pushing mechanism of the present invention pushes out the lowermost drug package in a horizontal direction so as to move on rails. Therefore, the mechanism disclosed in Yuyama Figs. 11(a)-11(c) is clearly different from the pushing mechanism of the present invention.

Dependent claims 2-4 and 6-10 are allowable at least by virtue of their dependencies. With regard to claim 6, the Examiner states that Yuyama disclose two rails, a screw disposed below and extending along the rails, and a pushing claw. The Yuyama reference has been carefully reviewed, and no mention of these features can be found. The Examiner, if he should maintain this rejection, is requested to specifically identify these features in the Yuyama drawings and/or specification. The Examiner does refer to col. 2, lines 42-47, but this

description simply explains that the discharge member (conveyor) may be reversed so that the medicine on the discharge member is stopped at a predetermined position. The cited text does not describe the limitations of claim 6.

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

Yasuhiro SHIGEYAMA et al.

By: Michael Huppert

Michael S. Huppert
Registration No. 40,268
Attorney for Applicants

MSH/kjf
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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